

Wijitphan/Boungnarith
10/807,665

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: PHEERAPHAN WIJITPHAN ART UNIT: 1655

SERIAL NO.: 10/807,665

EXAMINER: DEBORAH A. DAVIS

FILED: MARCH 24, 2004

CONFIRMATION NO.: 4328

**TITLE: METHOD TO STIMULATE RESIN FORMATION BY WOUNDING
ON THE AQUILARIA'S TRUCK**

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT
ABANDONED UNINTENTIONALLY UNDER 37 C.F.R. §1.137(b)**

Hon. Commissioner for Patents
United States Patent and Trademark Office
P. O. Box 1450
Alexandria, Virginia 22313-1450

Attn: Office of Petitions

Dear Sir:

Applicant hereby petitions the Commissioner for Patents for revival of the above-identified patent application, pursuant to 37 C.F.R. §1.137(b), on the ground that said patent application was intentionally abandoned for the reasons specified in this *Petition*.

FILED ELECTRONICALLY

IN RESPONSE TO NOTICE OF ABANDONMENT

Petition for Revival Fee of \$770.00 is being paid by credit card herewith
Please use deposit account # 500716 for any refund or additional required fees.

In support of this *Petition for Revival*, Applicant hereby provides the following items and statements:

1. The Petition Fee of \$770.00 via credit card herewith pursuant to 37 C.F.R. §1.17(m), Applicant being entitled to claim Small Entity status.
2. A proper Reply to the non-final Office Action, issued March 14, 2007, which was filed June 4, 2007, and is “of record” in the official electronic file wrapper; the application having been held to be abandoned for failure to properly respond to the non-final Office Action, mailed March 14, 2007, as further explained herein.
3. On August 13, 2007, the undersigned attorney filed a copy of an Assignment, dated April 17, 2006, which is part of the official electronic file wrapper, showing that named Applicant, Pheeraphan Wijitphan, assigned “all right[s] to] my U.S. patents [sic] application serial number 10/807,665 to Miss Kongchanh Boungarith.” This Assignment was separately recorded with the PTO’s Assignment Branch.
4. The reply to the non-final Office Action that was filed June 4, 2007, was filed at the direction of the undersigned attorney, believing that he had authority to act on behalf of Miss Kongchanh Boungarith in light of the Assignment, executed April 17, 2006.
5. On October 16, 2007, the Examiner issued a *Notice of Abandonment* holding the patent application abandoned for failure to file a proper reply to the non-final Office Action, dated March 14, 2007. In view of the Examiner’s *Interview Summary*, which references an attempted interview with the Examiner, it would appear that the PTO has

refused to accept the reply to the non-final Office Action that was filed June 4, 2007, on the apparent ground that the undersigned attorney did not have the authority to act in connection with the prosecution of the above-identified patent application, notwithstanding that the official electronic file indicates that notice of revocation of the undersigned's *Power of Attorney* was not issued until June 8, 2007. It is unclear why the undersigned's *Power of Attorney* was revoked during May 2007, inasmuch as the relevant Assignment was executed April 17, 2006.

6. In reply to the *Notice of Abandonment*, mailed October 16, 2007, I filed a formal *Substitute Power of Attorney* on November 6, 2007, however, I was surprised that the patent application had become "abandoned," inasmuch as I did direct the timely filing of a reply to the outstanding non-final Office Action, which was, in fact, filed June 4, 2007, and the exclusive Assignee of the patent application had so instructed to me act in the patent application.

7. The undersigned, now (again) formally the attorney-of-record, as indicated by the official electronic file wrapper, submits that one of the following circumstances applies:

(a) the patent application was never, in fact, abandoned inasmuch as a timely reply to the non-final Office Action, issued March 14, 2007, was filed June 4, 2007 (in such circumstance, the undersigned requests a refund of the Petition Fee of \$770 being concurrently filed); *or*,

(b) the patent application was never, in fact, abandoned, since the undersigned attorney-of-record filed evidence of an Assignment on August 13, 2007, on behalf of the current owner of the entire right, title and interest in, and to, said patent application, and that such evidence of Assignment was filed within the statutory six-month period for reply set by the non-final Office Action, dated March 14, 2007; the undersigned's transmittal letter, filed March 24, 2004, including authorization to "charge any deficiency to my deposit account 500,716," which has been construed as authorizing all required extensions of time and requisite extension fees (in such circumstance, the undersigned requests a refund of the Petition Fee of \$770 and consents to charging his Deposit Account for the two-month extension fee of \$230, for providing an extension of time for reply through August 14, 2007); *or*,

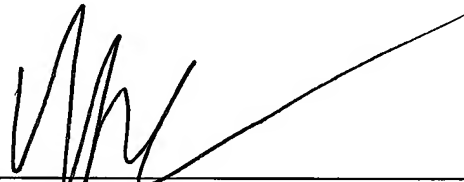
(c) the patent application should now be "revived" by now accepting the reply, filed June 4, 2007, to the non-final Office Action, mailed March 14, 2007, since: (1) the undersigned has now provided evidence of proper authorization to prosecute the above-identified patent application; and (2) the undersigned had reason to believe that the patent application was not abandoned, in view of the reply filed June 4, 2007, and that the *Notice of Abandonment* was, at least arguably, issued for this patent application in error for either of the reasons provided in ¶ 7(a) or (b).

8. Since this utility patent application was filed after June 8, 1995, no terminal disclaimer is required.

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I hereby declare that all statements made herein on my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this *Petition* is directed.

Dated: March 3, 2008

A handwritten signature in black ink, appearing to read 'Michael I. Kroll', is written over a horizontal line.

Michael I. Kroll
Attorney of Record for Kongchanh
Boungnarith, Exclusive Assignee
Reg. No. 26,755
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